FILED
OCT 27 1980
CLERK

No. 80-45

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1980

EUGENE JOHNSON, III,
Petitioner,

v.

J.O.L., II,
Respondent.

ON A WRIT OF CERTIORARI TO THE
DISTRICT OF COLUMBIA COURT OF APPEALS

RESPONDENT'S MOTION TO DISMISS THE WRIT OF CERTIORARI

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October 27, 1980

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Respondent hereby respectfully moves that the writ of certiorari in this case be dismissed, and that the case be remanded to the District of Columbia Court of Appeals with instructions to remand to the Superior Court of the District of Columbia so that the adoption decree which is the subject of this case can be vacated.

This case commenced on March 31, 1977, when respondent (petitioner below) filed a petition for adoption in the Superior Court of the District of Columbia, Family Division, seeking adoption by respondent of the adoptees.

Respondent is married to the mother of the adoptees. Petitioner (respondent below) is the biological father of the adoptees.

Pursuant to D.C. Code § 16-304(e), a full evidentiary hearing was held on May 24, 25 and 26, 1978. The trial court entered its memorandum opinion and order on August 3, 1978, granting the petition for adoption. Said order was affirmed by the District of Columbia Court of Appeals on December 10, 1979, and petitioner's petition for rehearing *en banc* was denied on March 27, 1980. On July 10, 1980, petitioner filed with this Court his petition for a writ of certiorari. The Court granted the writ on October 6, 1980.

The relief sought by petitioner from this Court is the vacating of the adoption decree by the trial court.

Respondent desires to consent to the vacating of the decree by the trial court. While the case is in this Court, however, the trial court is without jurisdiction. Respondent submits, therefore, that this Court should dismiss the writ of certiorari and remand the case to the trial court so that the adoption decree can be vacated.

For these reasons, respondent suggests that the issues raised by petitioner in this case no longer affect either party, that no case or controversy is before this Court and that the writ should be dismissed and the case remanded so that the adoption decree can be vacated by the trial court.

Respectfully submitted,

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